UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,638	04/08/2004	Thanthrimudalige D.J. Dunstan	3050-004	8823
33432 7590 04/03/2008 KILYK & BOWERSOX, P.L.L.C.			EXAMINER	
400 HOLIDAY	*		MAPLES, JOHN S	
SUITE 102 WARRENTON, VA 20186			ART UNIT	PAPER NUMBER
			1795	
			MAIL DATE	DELIVERY MODE
			04/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Learnance from may be switched under the prosineous of 3 CFR1 1300, into event, however, may a regive be mady filed If NO period for regive is specified above, the maximum statutory period will apply and will explain \$X\$ (5) (NOATHS from the mating date of this communication. Failur to regive yellow plain the sid or secretated period for regive used period profit of the provided by the Critical form and period and 30 of CFR 1.74(5). Status 1) Responsive to communication (5) filed on \$\textit{O9}\$ January 2008. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under \$Ex\$ parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) \$\frac{1.5-21\$ and 23-59}{1.5-21\$ and 23-59}\$ (slare withdrawn from consideration. 4a) Of the above claim(s) \$\frac{2.49}{2.54}\$ (slare withdrawn from consideration. 5) Claim(s) \$\frac{1.5-21\$ and 23-59}{2.521\$.23-27\$.50-59}\$ are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on \$\frac{1.5-22}{2.521}\$.32-27\$.50-59\$ are subject to restriction and/or election requirement. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to .Se 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. \$\frac{5}{219}\$ 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. \$\frac{5}{219}\$ (c) or (f). 3) Acknowledgment is made of a claim for foreign priority documents have been received in Application No		Application No.	Applicant(s)					
John S. Maples 1795	Office Action Comments	10/820,638	DUNSTAN ET AL.					
- The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MALING DATE OF THIS COMMUNICATION. Extension of union may be sealable under the processor of SYCR 1.79(ii). In the ownth notwer, may emply be intended from the processor of the processor of SYCR 1.70(ii). In the ownth notwer, may emply be intended from the processor of the communication. Failure to reply which has doe occasion period for processor and patient the maining date of this communication. Failure to reply which has doe occasion period for processor. Status Status Status This action is FINAL 2b This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s) 1,5-21 and 23-59 is/are pending in the application. 4 Of the above claim(s) 28-49 is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 5 Claim(s) is/are pelcetd. 7 Claim(s) is/are objected to. 8 Claim(s) is/are objected to by the Examiner. 10 The drawing(s) filed on is/are: a accepted or b objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) solpicated to. See 37 CFR 1.121(d). 11 The oath or doclaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a	Oπice Action Summary	Examiner	Art Unit					
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Art Unit: 1795

Election/Restrictions

This application contains claims directed to the following patentably

Group I:

distinct species:

Species I: anode comprises a lithium intercalated electrode material;

Species II: anode comprises Li₄Ti₅O₁₂.

Group II:

Species I: cathode comprises one of the listed formula in claim 25;

Species II: cathode comprises LiCoO₂ or LiFePO₄.

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from each of Group I and Group II for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would

not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

- 2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 571-272-1287. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/John S. Maples/

John S. Maples Primary Examiner Art Unit 1795

JSM/3-29-2008

Application Number

Application/Control No.	Applicant(s)/Patent under Reexamination	
10/820,638	DUNSTAN ET AL.	
Examiner	Art Unit	
John S. Maples	1795	

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